

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4948 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

1 to 5: No

SHANTILAL M PATEL

Versus

DIVISIONAL CONTROLLER

Appearance:

MR HK RATHOD for Petitioner

MR SN SHELAT for Respondent No. 1

CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 20/03/98

ORAL JUDGEMENT

1. The petitioner- Driver was dismissed from service on the ground of negligent driving which resulted into death of a person. In the criminal trial, he had pleaded guilty and he was let off with probation.

2. In the departmental inquiry also, he was found guilty, but the Labour Court has come to the conclusion

that the inquiry was defective. Therefore, the evidence was led in the Labour Court and the Labour Court came to the conclusion that there was no negligence on the part of the workman and, therefore, the order of dismissal was set aside and reinstatement was given, but without back wages.

3. There is clear evidence that the bus could not be stopped for 200 feet even after the accident which clearly indicates that the bus was being driven rashly. The Labour Court has observed that the ST authorities have wrongly drawn the inference of excessive speed. The Labour Court has also observed that the brake of the bus was not effective. If the brake of the bus was not effective and the bus was driven, again it is a case of negligence in driving such vehicle. In these circumstances, the conclusion of the Labour Court that there is no negligence on the part of the workman is clearly erroneous and contrary to the evidence on record.

4. Since the workman has been reinstated by the order of the Labour Court, and it has not been challenged, there is no question of disturbing the order of reinstatement. However, in the facts of the present case, the award of the Labour Court refusing back wages is fully justified. Hence, this petition is dismissed. Rule discharged.

mhs/-